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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,064	11/14/2001	Edward G. Newman	X0111A	8809
24321	7590	06/24/2005	EXAMINER	
Law Offices of James J. Ralabate 5792 Main St. Williamsville, NY 14221			MAI, TAN V	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,064

Applicant(s)

NEWMAN ET AL.

Examiner

Tan V. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 22-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/14/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Applicant's election without traverse of Group I, Claims 1-21 and 28-29, in Paper No. filed 2/16/05 is acknowledged.

2. Claims 8-21 and 28-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per dependent claim 8, the phrase "said user can by voice commands" seems to be indefinite. Similarly noted claim 16

As per independent claim 9, the term "said housing containing internally all components" (lines 3-4) is misdescriptive. It is unclear whether the term "all" refer to the components recited in lines 1-3 or the component of a computer. Clarification is requested.

As per dependent claim 21, the term "other suitable communication means" is misdescriptive and undefined. It is noted that some NEW "communication means" may NOT exist at the time application filed.

As per independent claim 28, the term "all" (line 1) is misdescriptive and undefined. It is noted that some NEW "component" may NOT exist at the time application filed. Similarly noted claim 29.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newman et al '244 (applicants' admission Prior Art) in view of either PUBL # Hei 07-016388 (applicants' admission Prior Art), Pawate et al or Mark.

Newman et al disclose all the claimed features except (1) "control power" (claims 1 & 28-29, lines 6) and (2) "control and effect power" (claim 9, line 7) features. However, these features are old and well known in the art for saving the power/battery. For example, (1) PUBL # Hei 07-016388 discloses a "voice-recognition switch adapter capable of turning on/off various electric devices", (2) Pawate et al (col. 9, lines 49-65

"The AFEINT bit corresponds to the current condition of the AFE card interrupt signal. This signal is latched in the interface and controller circuit (180). Additionally, this signal is available to the DSP at the INT1-pin of the DSP. In order to **minimize the power consumption** of the smart card (100), the **host computer may maintain the DSP at reset**, for example, while in a smart mode, until an external event occurs, for example, a ring or a **voice-activated switch**. The host computer reads the AFEINT bit of the DSPCR to determine if the AFEINT bit has been set to one. If the AFEINT bit has been set to one, which indicates a pending interrupt from the AFE card, the host computer must ..."

and (3) Mark (col. 9, lines 25-49

"The AUD 2 further includes a micro-power amplifier 226 coupled to the output of the speaker 14. The amplifier 226 serves to provide a wake-up signal to the microprocessor 104 as described below. The amplifier 226 generates a signal in response to a signal generated by the speaker 114 in response to received acoustic signals. **The signal output by the amplifier 226 causes the microprocessor 104 to become fully active from, a "sleep mode" that is automatically entered into after a long period of inactivity in order to conserve power.** In an alternative embodiment, an input of the microprocessor 104 is coupled to a light sensor or **other activation device such as a radio frequency sensor**, which causes the microprocessor 104 to become fully active in response to an outside stimulus which may be provided by, e.g., a light or sound source associated, for example, with a telephone device. Thus, in accordance with such an embodiment, **the AUD 2 can be made active by the excitation of a transducer or other sensor, by, e.g., a light, radio frequency signal or the receipt of an acoustic signal having a pre-defined frequency and**

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a minimum, pre-defined intensity level. These pre-defined levels or values are a matter of design choice and are programed into the ROM 106, preferably at the time of manufacture. The wake-up signal ensures that the AUD 2 is fully active when the user wants to gain access to a service"

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine either PUBL # Hei 07-016388, Pawate et al or Mark.Rault in Newman et al, thereby making the claimed invention, because the proposed device is a computer having "voice activated" feature for control / effect power as claimed. It is the preamble of claim 29 recites "laptop computer". The feature is insignificant.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan V. Mai whose telephone number is (571) 272-3726. The examiner can normally be reached on Mon-Wed and Fri. from 9:30am to 2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki, can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is:

Official (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.



Tan V. Mai
Primary Examiner